

IN SENATE OF THE UNITED STATES.

FEBRUARY 10, 1846.

Submitted, and ordered to be printed.

Mr. NILES made the following

REPORT :

[To accompany bill S. No. 78.]

The Committee on the Post Office and Post Roads, to whom was referred the petition of Nathaniel Kuykendall, made the following report :

The petitioner was a contractor, in 1839, for carrying the mail on route No. 1,932, in Virginia, from Romney to Clarksburg, and carried the mail for four years and a half at a rate of compensation of two thousand dollars per annum, being the price stipulated to be paid for conveying the mail in two-horse stages, two trips a week and back. But he actually carried the mail in four-horse post-coaches, three trips a week and back, and in one day and a half, instead of two and a half days, which was the schedule under his contract. For the employment of four-horse coaches, instead of two-horse stages, and for one additional trip weekly, and the increased speed, he claims an additional compensation, which he estimates at about eight thousand dollars for the whole term of his contract. The facts that the petitioner carried the mail in four-horse post-coaches, and that he made three trips a week, and with increased speed, are satisfactorily proved. It also appears that the additional horses and the additional trip increased the tolls on the route about fifty per cent., being nearly five hundred dollars per annum.

This additional service was not expressly authorized by the department, but the circumstances which induced him to perform it are such as he claims authorized a belief that he should be paid for it; or afford a reasonable ground of equity, entitling him to compensation. These circumstances are as follows: At the lettings in 1839, the mail from Winchester to Parkersburg, on the Ohio river, consisting of three routes, was advertised for bids in two-horse stages and in four-horse coaches; and, when the bids were considered, the department accepted the proposals for four-horse service on the eastern and western divisions of the route; but, on the middle division, for which the petitioner was the bidder, it accepted the proposal for two-horse service; but at the same time expressly reserved the right to change it to four-horse service, and represented to the contractor that it would be so changed as soon as the revenues of the department would admit of it. It was a part of the contract that the contractor was to convey with the mail the passengers who came in the stage conveying the mail, at the points of connexion—that is, at Romney and Clarksburg.

The contract having been accepted for the lower grade of service in the middle division of the route only, the petitioner found that it would be difficult, if not impossible, for him to perform the same service, both in the conveyance of the mail and passengers with two horses, which the contractors on the east and west ends of the route would perform with four horses. Some of the postmasters and citizens on the route, perceiving his difficulty, interested themselves in the matter, and endeavored to relieve him from the embarrassments of his contract. At the request of the citizens of Marietta, the postmaster of that place went with the petitioner to Washington to see the Postmaster General on the subject, before the time for commencing the service, to induce him to order four-horse service, in conformity with the other divisions of the route. The Postmaster General declined then to order the higher grade of service, but gave encouragement that it might be ordered soon.

Under these circumstances, and with the advice of the citizens on the route, the petitioner was induced to stock the route for four-horse coach service, and to commence carrying the mail in that way, expecting soon to receive authority for this change in his service. He continued to transport the mail in four-horse coaches, and to make three instead of two trips a week, during the whole term of his contract, which was known to the department; but it did not order the higher grade of service, nor notify the contractor that he must not expect to be paid for the additional service he was rendering. Since the expiration of the petitioner's contract, the whole of this route has been let for four-horse coach service, whilst the mails are not increased beyond what they were during the preceding contract.

The question in the case seems to be, whether the circumstances under which this additional service was performed were such as to afford a reasonable ground of equity for compensating the petitioner for the same. And the committee are of opinion that they do afford such equitable ground, and they therefore report a bill for his relief. But they do not adopt, as the rate of compensation, the actual charges claimed by the petitioner, but the difference between the sum he received and the sum since paid for the higher grade of service, with an additional trip weekly, on the same route. This is \$1,267 per annum, making for the four years and a half the sum of \$5,701 50, which they think ought to be paid to the petitioner, and they report a bill accordingly.